

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009--326-C

In Re:)	
State Universal Service Support of Basic Local)	JOINT MOTION REQUESTING
Service Included in a Bundled Service Offering)	COMMISSIONER REVIEW OF
or Contract Offering)	HEARING OFFICER'S
)	ORDER

Pursuant to 26 S.C. Code Ann. Regs. 103-804(G) and 103-829 (Supp. 2008), the South Carolina Telephone Coalition ("SCTC") and the South Carolina Office of Regulatory Staff ("ORS") hereby submit this Joint Motion Requesting Commissioner Review of the Hearing Officer's Order. ORS received via email on Wednesday, October 7, 2009 the Hearing Officer's Order. The Order requires ORS to produce the documents filed by the Carriers of Last Resort ("COLRs") that are responsive to Request 1-1 within five (5) days of receipt of the Order. Given the short period of time allotted, SCTC and ORS were not able to file this Joint Motion any earlier than Monday, October 12, 2009.

The grounds for requesting Commissioner review of the Hearing Officer's Order are as follows:

1) The Hearing Officer reached his decision at least in part based upon the belief that ORS alone was objecting to the production of the information sought. (See Page 5). However, ORS contacted each COLR or counsel for each COLR to determine whether (1) the COLRs considered the information sought confidential and proprietary and (2) irrelevant to the pending issue in this docket. Based upon those conversations, ORS objected to the production of the

information sought. Further, because the discovery was directed at ORS and not to each individual COLR, ORS responded. Arguably, the information requested could have been sought from each COLR rather than ORS and each COLR would have had an opportunity to state their position relative to the request.

2) ORS respectfully submits that the Hearing Officer is mistaken regarding the calculation and distribution of the High Cost Support.

According to S.C. Code Law § 58-280(E)(5) and the PSC Guidelines and Administrative Procedures, the COLRs are required to file reports with the ORS demonstrating the difference between the cost to provide service and the maximum rate the COLR may charge the customer for its service. However, this Commission in Order No. 2001-996 implemented a phased-in approach to calculating the high cost support component of the state USF. The Supreme Court of South Carolina reviewed and affirmed the Commission's phased-in approach. According to the PSC Guidelines and Administrative Procedures, the high cost support component was to be implemented in three phases:

(1) Initial Phase

The high cost support component is equal to the revenue reductions made by the COLRs as a result of reduced tariffed rates approved by the PSC. The Initial Phase is limited to no more than one-third of the total fund approved by the Commission. The COLRs file cost study data to demonstrate that implicit support exists in the tariff rates proposed to be reduced. According to Footnote #2, p.5 of the PSC Guidelines and Administrative Procedures, "the High Cost Support shall be equal to the

revenue reductions as the result of reduced tariffed rates approved by the Commission.”

(2) Second Phase

The Second Phase is limited to no more than two thirds of the total state USF. The high cost support component for the COLR is based on reduced tariffed rates which demonstrate implicit support exists in the tariffed rates proposed to be reduced and updated cost of service data.

(2) Subsequent Phases

Any Subsequent Phase allows the COLR to transition to full high cost support funding. The high cost support component for the COLR is based on reduced tariffed rates which demonstrate implicit support exists in the tariffed rates proposed to be reduced and updated cost of service data.

3) COLR high-cost disbursements have been calculated and distributed in this manner since the State USF was implemented in 2001. Currently, the total amount of State USF high cost disbursement per COLR remains essentially static due to the fact that most COLRs have not withdrawn State USF beyond the Initial Phase, and no requests for additional State USF have been made or approved since 2004. According to Commission Order No. 2004-452, the per-line support calculation is performed for “portability purposes.” If this Commission had authorized two COLRs to provide service in the same service area, the State USF would be portable from one COLR to another in the event a customer changed service providers. Because there is no instance where two COLRs provide service in one service area, there has been no “porting” of State USF support. The amounts authorized by this Commission in prior Commission orders under Docket No. 1997-239-C to be distributed to each COLR are the

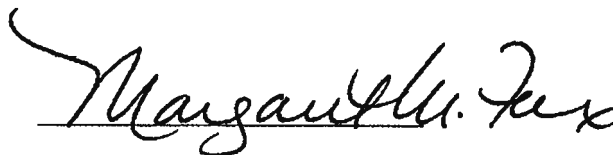
amounts distributed by ORS. In addition, the Commission determined that to try and fully fund the State USF would not be in the public interest and instead opted for a phased in approach. The Commission further found that the State USF should remain “static” so that the support that keeps basic local exchange service affordable does not disappear. (See Order No. 2004-452).

4) The CLECs assert that the forms submitted by the COLRs annually to ORS is the sole determining factor of how the COLRs disbursement of State USF support is calculated. ORS does not agree. While it is a requirement that the COLRs complete the forms, it is not determinative of the amount disbursed which is clearly identified in the PSC Administrative Guidelines and Procedures. (See attached affidavit of Mr. James M. McDaniel). Whether the COLR has one eligible line or one thousand eligible lines, that COLR is receiving the same amount of disbursement authorized by this Commission.

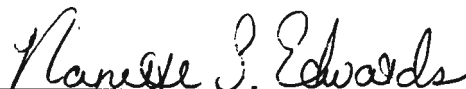
5) Furthermore, the Hearing Officer’s Order ties the relevance of the requested information to the CLECs’ desire to learn more about “eligible lines” and “maximum amount that they can charge for their eligible lines.” It has been conceded that the COLRs do not break down bundled lines and stand-alone lines on the *South Carolina Annual Universal Service Fund ILEC Data Report* and the *South Carolina State USF Per Line Support Calculation forms*. The number of “eligible” lines includes bundled lines, and the “maximum amount they can charge for eligible lines” are the companies’ respective tariffed rates for residential and single-line business service. Thus, as we have stated, there is no relevant information that can be gleaned from the requested data that is not already known.

WHEREFORE, for the reasons set forth above, SCTC and ORS request that the Commission grant an opportunity to review the Hearing Officer’s Order.

Respectfully submitted,



M. John Bowen, Jr.
Margaret M. Fox
McNair Law Firm, P. A.
Post Office Box 11390
Columbia, South Carolina 29211
Telephone : (803) 799-9800
Facsimile: (803) 376-2219
E-mail: jbowen@mcnair.net
pfox@mcnair.net



Nanette S. Edwards, Esquire
SC Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201
Phone: 803.737.0575
Fax: 803.737.0895
Email: nsedwar@regstaff.sc.gov

October 12, 2009
Columbia, SC

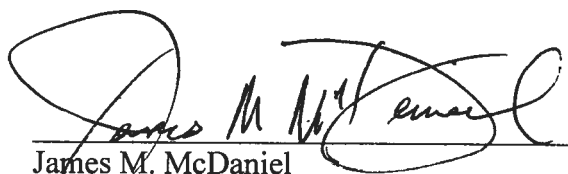
BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-326-C

In Re: State Universal Service Support)	AFFIDAVIT
Of Basic Local Service Included in a)	OF
Bundled Service Offering or Contract)	JAMES M. MCDANIEL
Offering)	


PERSONALLY appeared before me, James M. McDaniel, who first being duly sworn, states the following:

1. I worked for the Public Service of Commission of South Carolina ("Commission" or "PSC") as an associate engineer and chief of the telecommunications area in the Utilities Department for approximately 28 years. In September 2004, I joined the South Carolina Office of Regulatory Staff ("ORS") as a Program Manager in the Telecommunications Department.
2. During my employment with the Commission, the State Universal Service Fund ("State USF") was created and administered by the Commission.
3. As the Program Manager for ORS, I assist with the administration and annual re-sizing of the State USF. The method of disbursement used by ORS is the same as that used by the Commission.

Dated: October 12, 2009.


James M. McDaniel
Program Manager, Telecommunications

SWORN to before me this 12 day of October, 2009


Notary Public for South Carolina Pamela J. McMillan
My Commission Expires: May 3, 2017

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-326-C

IN RE:)	
State Universal Service Support of Basic Local)	CERTIFICATE OF
Service Included in a Bundled Service Offering)	SERVICE
or Contract Offering)	

This is to certify that I, Pamela J. McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **JOINT MOTION** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Susan S. Masterton, Esquire
Embarq
1313 Blair Stone Road
Tallahassee, FL, 32301

Patrick W. Turner, Esquire
BellSouth Telecommunications,
Incorporated d/b/a AT&T South Carolina
1600 Williams Street, Suite 5200
PO Box 752
Columbia, SC, 29202

Scott Elliott, Esquire
Elliott & Elliott, P.A.
721 Olive Street
Columbia, SC, 29205

John. J. Pringle, Jr, Esquire
Ellis, Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, SC, 29202

M. John Bowen, Jr., Esquire
Margaret M. Fox, Esquire
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, SC, 29211

Burnet R. Maybank III, Esquire
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC, 29202

Steven W. Hamm, Esquire
Richardson Plowden and Robinson, P.A.
Post Office Drawer 7788
Columbia, SC, 29202

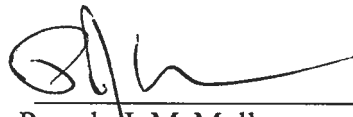
Frank R. Ellerbe, III, Esquire
Bonnie D. Shealy, Esquire
Robinson, McFadden & Moore, P.C.
Post Office Box 944
Columbia, SC, 29202

William R Atkinson
Sprint Communications Company L. P.
233 Peachtree Street
Suite 2200
Atlanta, GA, 30303

Zel Gilbert, Director External Affairs
Embarq Corporation
1122 Lady Street, Suite 1050
Columbia, SC, 29201

Stan Bugner , State Director
Verizon South, Incorporated
1301 Gervais Street, Suite 825
Columbia, SC, 29201

John M.S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Willoughby & Hoefer, P.A.
Post Office Box 8416
Columbia, SC, 29202



Pamela J. McMullan

October 12, 2009
Columbia, South Carolina